IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.12.2007

CORAM :

THE HON'BLE MR. JUSTICE S.TAMILVANAN

A.S.No.657 of 1996

The Special Tahsildar
(Adi Dravidar Welfare)
Namakkal. .... Appellant/Referring Officer

vs.

Rajammbal ..... Respondent/Claimant

Appeal filed against the Judgment and Decree dated 25.10.1993 made in L.A.O.P.No.7 of 1988 on the file of the Subordinate Judge, Namakkal.

For Appellants : Mr.V.Ravi, Spl.G.P. (AS)

For Respondent : Mr.T.Gowthaman for
M/s. Muthumani Doraisamy

JUDGMENT

This appeal has been preferred against the judgment and decree dated 25.10.1993 made in L.A.O.P.No.7 of 1998 on the file of the Land Acquisition Tribunal / Subordinate Judge, Namakkal.

2. It is not in dispute that an extent of 1.76 acres in Survey No.302/1 and 1.58 acres in S.No.302/2 and in total an extent of 3.34 acres of land belong to the respondent herein was acquired by the appellant / Sub Tahsildar (Adi Dravidar Welfare), Namakkal, for the purpose of providing house sites to the Adi Dravidars. It is seen that for the land acquisition proceedings notification under Section 4(1) of the Land Acquisition Act, 1894 (herein after referred to as the Act) was published in the Government Gazette dated 17.04.1995. As per the award No.6 of 1985 dated 27.03.1986, the Land Acquisition Officer had decided the market value of acquired land at Rs.5,500/- per acre, based on the data sale deed. The respondent herein received the amount with objections and on her request, reference was made under Section 18 of the Land Acquisition Act.

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

3. It is seen that before the Land Acquisition Tribunal, on the side of the respondent/claimant, brother of the respondent/Claimant, one Radhakrishnan was examined as C.W.1 and Ex.A1, certified copy of the sale deed relating to one K.M.Subramaniam dated 18.11.1983 and Ex.A.2, certified copy of the sale deed relating to one Arunachala Udayar dated 29.08.1983 were marked. On the side of the appellant/Referring Officer, Ex.B.1, certified copy of the sale deed relating to one Kabuna Beebi dated 15.11.1983 was marked apart from the topographical sketch, Ex.B.2.

4.The Land Acquisition Tribunal considering the oral and documentary evidence and the arguments advanced by both sides, has decided the market value at Rs.20,000/- per acre and accordingly, directed the appellant to pay the compensation at the aforesaid rate, for the acquired land with 30% solatium and interest as per the Act.

5. The learned Special Government Pleader appearing for the appellant would contend that though the Land Acquisition Officer had decided compensation at Rs.5,500/- per acre, the Tribunal has awarded the compensation more than 3 ½ times. As contended by the learned counsel appearing for the respondent, the mere awarding of 3 ½ times itself cannot be construed as a defence against the impugned judgment, since the respondent / claimant is entitled to just and reasonable amount of compensation, on the basis of market value.

6. Point for determination:-

Whether the trial Court has fixed the market value of the acquired land, on the basis of sale that had taken place prior to 4 (1) notification and whether the compensation so awarded was just and reasonable ?

7. As contended by the learned counsel for the respondent, as per Ex.A.1 sale deed, the sale had taken place on 18.11.1983 prior to the date of 4(1) notification dated 17.04.1985. It is seen that the sale had taken place nearly two years prior to the date of 4(1) notification. Further, as per Ex.A.1, sale deed, an extent of 60 cents of land for sale consideration, sum of Rs.12,000/- at Rs.200/- per cent, had been sold. The topographical sketch, marked as Ex.A2 would show that the land described in Ex.A1 relates to the same survey number but in different sub division and therefore, it is clear that Ex.A.2 relates to a similarly situated land which has not been disputed by the appellant by way of letting any oral evidence. It is seen that Ex.B.1, sale deed, dated 15.11.1993 relates to a land in S.No.303/5C2. As per the sketch, Ex.B.2, the data sale deed

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

taken up for fixing the market value is far away from the acquired land and based on the evidence, the land acquisition tribunal had rightly rejected the sale under Ex.B.1, on the ground that it was not related to a similarly placed land.

8. It is not in dispute that the acquired lands are in S.Nos. 302/1 and 302/2, where as under Ex.A.1, sale deed, land has been sold in S.No.303/5B2, which is very nearer to the acquired land, where as, the land described in the sale deed, Ex.B.1 is away from the acquire land. Ex.A.1 is 17 months prior to the date of notification. When the sale deed refers to a similarly placed land and also prior to the date of 4 (1) Notification and extent of land sold is also 60 cents, not a minimum extent, nothing wrong in taking the sale consideration referred to in Ex.A.1, for the purpose of determining the market value of the acquired land. Hence, the appeal fails.

9. In the result, confirming the Judgment and Decree rendered by the court below, the appeal is dismissed. However, there is no order as to costs.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

tsvn

To

The Subordinate Judge
Namakkal.

Copy to

The Record Keeper,
VR Section, Madras High Court, Madras.

+1cc to Govt. Pleader Sr 73595
+1cc to M/s.Muthumani Doraisami, Advocate Sr 73854

JP (CO)
km/23.1.

A.S.No.657 of 1996

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/